

AMENDED IN ASSEMBLY MARCH 20, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1989

Introduced by Assembly Member Carter

February 23, 2012

An act to add Article 6.5 (commencing with Section ~~5077.85~~ 5077.81) to Chapter 1 of Division 5 of the Public Resources Code, relating to parks, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1989, as amended, Carter. State parks: bicycle facilities.

Existing law vests the Department of Parks and Recreation with control of the state park system and specifies that certain funds are available, upon appropriation by the Legislature, for state park planning, acquisition, and development projects, among other things. Existing law imposes various taxes, including taxes on the privilege of engaging in certain activities. The Fee Collection Procedures Law, the violation of which is a crime, provides procedures for the collection of certain fees and surcharges.

This bill would, on and after January 1, 2013, impose a surcharge on every retailer for the privilege of selling a new bicycle in this state at the rate of \$2 per new bicycle. *The bill would require that, commencing with the 2013–14 fiscal year, the new bicycle surcharge be administered by the State Board of Equalization and collected by the board in accordance with surcharge would be administered by the State Board of Equalization and would be collected pursuant to the procedures set forth in the Fee Collection Procedures Law.* By expanding the

application of the Fee Collection Procedures Law, the violation of which is a crime, this bill would impose a state-mandated local program. ~~The~~

The bill would require each person required to pay the surcharge to prepare and file with the board a return using electronic media in the form prescribed by the board, containing specified information. The bill would deposit the revenues, less refunds, of the surcharge into the State Park Bicycle Facilities Fund, which this bill would create, and would require that moneys in the fund, upon appropriation by the Legislature, be used by the Department of Parks and Recreation to pay for the maintenance of bicycle trails and paths within units of the state park system, the maintenance of signage with respect to those trails and paths, and the maintenance of related bicycle facilities within units of the state park system.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 6.5 (commencing with Section ~~5077.85~~)
2 ~~5077.81~~) is added to Chapter 1 of Division 5 of the Public
3 Resources Code, to read:

4
5 Article 6.5. State Park Bicycle Facilities Fund
6

7 ~~5077.85.—(a) On and after January 1, 2013, there is hereby~~
8 ~~imposed a surcharge on every retailer for the privilege of selling~~
9 ~~a new bicycle in this state at the rate of two dollars (\$2) per new~~
10 ~~bicycle.~~

11 ~~(b)—~~
12 ~~5077.81.~~ For purposes of this article, ~~all~~ of the following
13 ~~definitions~~ shall apply:
14 ~~(1)~~

1 (a) “Bicycle” has the same meaning as that term is defined in
2 Section 890.2 of the Streets and Highways Code.

3 ~~(2)~~

4 (b) “Board” means the State Board of Equalization.

5 ~~(3)~~

6 (c) “Retailer” has the same meaning as that term is defined in
7 Section 6015 of the Revenue and Taxation Code.

8 ~~(e) The board shall administer and collect the surcharge imposed~~
9 ~~by this section pursuant to~~

10 5077.82. *On and after July 1, 2013, there is hereby imposed*
11 *a surcharge on every retailer for the privilege of selling a bicycle*
12 *in this state at a rate of two dollars (\$2) per new bicycle.*

13 5077.83. *Commencing with the 2013–14 fiscal year, the new*
14 *bicycle surcharge imposed pursuant to Section 5077.82, shall be*
15 *administered and collected by the board in accordance with the*
16 *Fee Collection Procedures Law (Part 30 (commencing with Section*
17 *55001) of Division 2 of the Revenue and Taxation Code). For*
18 *purposes of this section article, the references in the Fee Collection*
19 *Procedures Law to “fee” shall include the surcharge imposed by*
20 *this section article and references to “feepayer” shall include a*
21 *person required to pay the surcharge imposed by this section.*

22 ~~(d)~~

23 5077.84. *Pursuant to Section 55040 of the Revenue and*
24 *Taxation Code, each person required to pay the surcharge imposed*
25 *pursuant to Section 5077.82 shall prepare and file with the board*
26 *a return using electronic media, in the form prescribed by the*
27 *board containing information as the board deems necessary or*
28 *appropriate for the proper administration of this article and the*
29 *Fee Collections Procedures Law. The return shall be filed on or*
30 *before the last day of the calendar month following the calendar*
31 *quarter to which it relates, together with a remittance payable to*
32 *the board for the amount of surcharge due for that period. Returns*
33 *shall be authenticated in a form or pursuant to methods as may*
34 *be prescribed by the board.*

35 5077.85. (a) The board may prescribe, adopt, and enforce
36 regulations relating to the administration and enforcement of this
37 ~~section article~~, including, but not limited to, collections, reporting,
38 refunds, and appeals.

39 ~~(e)~~

(b) The board may prescribe, adopt, and enforce any emergency regulations as necessary to implement this ~~section~~ *article*. Any emergency regulation prescribed, adopted, or enforced pursuant to this ~~section~~ *article* shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.

~~(f) The surcharges imposed by this section are due and payable to the board quarterly on or before the last day of the month next succeeding each quarterly period.~~

~~(g) (1) On or before the last day of the month following each quarterly period of three months, a return for the preceeding quarterly period shall be filed using electronic media with the board.~~

~~(2) The board may prescribe those forms and reporting requirements as are necessary to implement the surcharge.~~

~~(3) Returns shall be authenticated in a form, or pursuant to methods, as may be prescribed by the board.~~

5077.86. The State Park Bicycle Facilities Fund is hereby created in the State Treasury. All revenues, interest, penalties, and other amounts collected pursuant to Section ~~5077.85~~ 5077.83 shall be deposited into the State Park Bicycle Facilities Fund, less refunds and reimbursement to the board for expenses incurred in the administration and collection of the surcharge. For purposes of this article, “fund” means the State Park Bicycle Facilities Fund established by this section.

5077.87. All moneys in the fund shall, upon appropriation by the Legislature, be used by the department to pay for the following:

(a) The maintenance of bicycle trails and bicycle paths within units of the state park system.

(b) The maintenance of signage with respect to the trails and bicycle paths described in subdivision (a).

(c) The maintenance of related bicycle facilities, including, but not limited to, bicycle parking facilities, within units of the state park system.

1 SEC. 2. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

10 SEC. 3. This act is an urgency statute necessary for the
11 immediate preservation of the public peace, health, or safety within
12 the meaning of Article IV of the Constitution and shall go into
13 immediate effect. The facts constituting the necessity are:

14 In order to provide for the maintenance of bicycle facilities
15 within the state park system at the earliest possible date, it is
16 necessary that this act take effect immediately.